

REMARKS

The Examiner's comments together with the cited references have been carefully studied. Favorable reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

Applicants herewith confirm the election of Group I, claims 1-9, drawn to inkjet recording element. Such rejection is made without traverse. Non-elected Claim 10 has been cancelled, without prejudice as to filing of a divisional application.

Relying on 35 U.S.C. 102(e), the Examiner rejected claims 1-4, 8, and 9 as being anticipated by Kapusniak (US 2005/0158483). Applicants respectfully submit that Kapusniak clearly does not anticipate the present claimed invention. The present invention is based on the discovery that acid treatment of already formed allophone-type amorphous aluminosilicate particles improves the dye keeping and image stability for inkjet recording elements having an ink-receiving layer comprising such allophone-type aluminosilicate particles. Kapusniak et al. is distinguished from the present claimed invention in that it does not disclose an inkjet recording element having an ink-receiving layer comprising allophone-type aluminosilicate particles (but rather discloses an inkjet recording element comprising a subbing layer provided between a support and hydrophilic ink-receiving layers, wherein the subbing layer comprises aluminosilicate particles in order to improve adhesion of the hydrophilic ink-receiving layers to the support), and further in that the aluminosilicate employed in Kapusniak et al. are not taught as having been submitted to an acidic treatment.

As a first distinction, it is noted that subbing layers as taught in Kapusniak et al. are distinguished from ink-receiving layers in that they are typically relatively thin layers in direct contact with the support, while the ink-receiving layers are thicker layers separated from the support by the subbing layer. Kapusniak et al. itself expressly distinguishes between the subbing layer thereof and the functional (i.e., non-subbing or ink-absorbing) layers thereof (see, e.g., paragraph [0022]). As the applied reference itself distinguishes between subbing layers and ink-absorbing layers, it is clear error for the Examiner to "redefine" the disclosed subbing layer of Kapusniak as an ink-receiving layer. As a second distinction, while the

aluminosilicate particles employed in the subbing layer of Kapusniak may comprise allophone-type amorphous aluminosilicate, there is no disclosure of any aluminosilicate particles that have actually been submitted to an acidic treatment. The Examiner's reference to paragraph [0041] is noted, but such paragraph merely notes that synthetic allophanes may be more amorphous and acidic than natural allophone. This is not a disclosure of already formed allophanes which have been subsequently submitted to an acid treatment. Note, e.g., there is no acid treatment step described for the actually disclosed steps for preparation of aluminosilicate polymer in paragraphs [0042]-[0053] and [0074]-[0076]. Thus, it is clear that Kapusniak et al does not anticipate the claimed invention, and withdrawal of this rejection is respectfully urged.

Relying on 35 U.S.C. 103(a), the Examiner rejected claims 6 and 7 as being unpatentable over Kapusniak (US 2005/0158483). This rejection is respectfully traversed.

Regarding claim 6, the Examiner argues it would have been obvious to select any portion of the disclosed 1-20% concentration range for the aluminosilicate particles in the "subbing layer (receiving layer)" of Kapusniak, as a person of ordinary skill in the art would adjust the particle level to "optimize the absorption capacity" of the receiving layer. As explained above, however, as Kapusniak et al is directed towards the use of aluminosilicate particles in a subbing layer to improve adhesion, rather than as use in an ink-receiving layer, the optimization suggested by the Examiner to "optimize the absorption capacity" would not have been suggested. In any event, claim 6 is further distinguished from Kapusniak based on the distinction that Kapusniak does not teach or disclose the use of aluminosilicate particles that have been submitted to an acidic treatment as explained above, and such treatment would not have been obvious as there is no teaching or suggestion that such a treatment would improve the dye keeping and image stability as demonstrated in the present invention.

Regarding claim 7, the Examiner argues it would have been obvious to "adjust" the pH of the receiving layer of Kapusniak with an appropriate acid, since it has been held that the provision of "adjustability", where needed, involves only

routine skill in the art (citing *In re Stevens*, 101 USPQ 284 (CCPA 1954)). Such argument is not well-taken with respect to the present claims, as there is no teaching or suggestion based on the prior art that “adjustment” of the pH of the subbing layer of Kapusniak et al. is “needed” for any reason, and certainly not in order to provide improved dye keeping and image stability in inkjet receivers as demonstrated in the instant invention.. There is no teaching or suggestion in Kapusniak et al of an art-recognized need that the pH of an ink-receiving layer coating composition needs to be “adjusted” within the claimed parameters in order to provide the demonstrated performance advantages. It is further noted that the referenced *In re Stevens*, 212 F.2d 197, 101 USPQ 284 (CCPA 1954) case relied upon by the Examiner in any event relates to actual mechanical adjustability of a component of a fishing rod handle, rather than to “adjustment” of chemical compositions that would lead to a pH change, and the facts in such prior legal decision are accordingly clearly not sufficiently similar to those in the instant application to justify the Examiner’s use in the present application of the obviousness rationale used by the court in such prior case.

Relying on 35 U.S.C. 103(a), the Examiner rejected claim 5 as being unpatentable over Kapusniak (US 2005/0158483) in view of Doronin (RU 2205685). This rejection is respectfully traversed. The Examiner argues that it would have been obvious to modify the aluminosilicate preparation method of Kapusniak to include the preparation of aluminosilicate involving nitric acid of Doronin because Kapusniak uses an amorphous aluminosilicate and the preparation method taught by Doronin could easily be incorporated, with the motivation for doing so that the preparation method taught by Doronin gives porous aluminosilicate composites suitable as absorbents with increased strength of material. While the proposed combination does not appear to be reasonably suggested to one skilled in the art to the extent the advantages of the materials of Doronin do not appear to be relevant to improving adhesion in a subbing layer as is the actual object of Kapusniak et al., it is in any event noted that if the aluminosilicate particles taught by Doronin were to be substituted for those of Kapusniak et al, the instant invention still would not be obtained as Doronin is directed towards the use of aluminosilicate composites composed of montmorillonite, rather than allophane-type aluminosilicate particles. If the Examiner

is instead arguing that it would have been obvious to treat the allophone-type particles of Kapusniak with acid because Doronin teaches acid treatment, such argument neglects to note that the acid treatment in Doronin is disclosed as part of the formation of the composites, rather than a subsequent treatment step of already formed allophone-type aluminosilicate particles. As the types of particles are different, there is clearly no teaching or suggest to use the acid treatment used in the preparation of the montmorillonite based particles of Doronin for subsequent treatment of the already-formed allophone-type particles employed in Kapusniak et al., and especially no teaching or suggestion to employ such an acid treatment on particles to be employed in an ink-receiving layer (as opposed to a subbing layer) in order to improve the dye keeping and image stability of an inkjet recording element. Reconsideration of this rejection is accordingly respectfully urged.

In view of the foregoing remarks, the claims are now deemed allowable and such favorable action is courteously solicited.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.

U.S. Serial No. 10/597,655